

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

In the Matter of OACYS Telecom, Inc. (U7056C)  
for a Certificate of Public Convenience and  
Necessity to Provide Full Facilities-Based and  
Resold Local Exchange Service in AT&T  
California, Verizon California, Citizens  
Telecommunications Company of California,  
Citizens Telecommunications Company of the  
Southwest, Frontier Communications of the  
Southwest, Inc., and Frontier Communications  
West Coast, Inc. Local Exchange Areas, and  
IntraLATA and InterLATA Interexchange  
Telephone Service Statewide.

Application 14-12-025  
(Filed December 24, 2014)

**DECISION AMENDING OACYS TELECOM, INC.'S CERTIFICATE OF PUBLIC  
CONVENIENCE AND NECESSITY IN ORDER TO INCLUDE FULL  
FACILITIES-BASED AND RESOLD LOCAL EXCHANGE SERVICE AND  
INTEREXCHANGE SERVICE****Summary**

Pursuant to Public Utilities Code § 1001, we amend the OACYS Telecom, Inc.'s Certificate of Public Convenience and Necessity previously provided to include full facilities-based and resold local exchange telecommunications services and interexchange service in California subject to the terms and conditions set forth in the Ordering Paragraphs.

**1. Background**

On December 24, 2015, OACYS Telecom, Inc. (OACYS or Applicant), a California corporation, filed an application for a Certificate of Public

Convenience and Necessity (CPCN) to provide resold and full facilities-based telecommunications services in the service territories of Pacific Bell Telephone Company d/b/a AT&T California (AT&T), Verizon California Inc. (Verizon), Citizens Telecommunications Company of California, Inc. d/b/a/ Frontier Communications of California (Citizens), Citizens Telecommunications Company of the Southwest (Citizens Southwest), Frontier Communications Company of the Southwest, Inc. (Frontier Southwest), and Frontier Communications West Coast, Inc. (Frontier West Coast) and interexchange service in California.

OACYS was granted a CPCN to provide limited facilities-based local exchange and resold services in the territories of Pacific Bell Telephone d/b/a AT&T California, Verizon California Inc., Citizens Telecommunications Company of California, Inc. d/b/a Frontier Communications of California, and SureWest Telephone in D. 08-01-039 on January 31, 2008. To date, OACYS has provided service to customers solely through facilities or services purchased from other carriers. OACYS's business has evolved and it now seeks full facilities-based authority to perform additional construction activities to meet customer needs.

OACYS proposes to provide local exchange services to business and residential customers via short segment fiber spur to connect OACYS's network with additional bandwidth.

OACYS's principal place of business is located at:

767 North Porter Road  
Porterville, CA 93257

## **2. Jurisdiction**

Pub. Util. Code § 216(a) defines the term "Public Utility," to include a "telephone corporation," which in turn is defined in Pub. Util. Code § 234(a) as

“every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state.”

OACYS proposes to provide local and interexchange service, as well as switched access service, long distance resale, advanced services and high speed digital service. OACYS is a telephone corporation and a public utility subject to our jurisdiction.

### **3. California Environmental Quality Act (CEQA)**

Pursuant to CEQA and Rule 2.4<sup>1</sup> of the Commission’s Rules of Practice and Procedure (Rules), the Commission examines projects to determine any potential environmental impacts in order that adverse effects are avoided and environmental quality is restored or enhanced to the fullest extent possible under CEQA.

In the Proponent’s Environmental Assessment and Response, OACYS’s proposed construction activities will generally include the installation of fiber optic cable to connect the OACYS Network Operations Center on Porter Road to connect with a long-haul fiber path at Villa Street owned by Central Valley Independent Network, LLC.

These activities fall within the following classes of projects that are exempt from CEQA and for which neither an Environmental Impact Report (EIR) nor a Negative Declaration is required.

- Class 1 Exemption: operation, repair, maintenance, leasing or minor alteration of existing public or private structures and facilities, with negligible or no expansion of an existing use.

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<sup>1</sup> Unless otherwise noted, items labeled “Rule” are from the Commission’s Rules of Practice and Procedure.

This includes existing facilities used to provide public utility services. 14 CCR § 15301.

- Class 3 Exemption: construction including water main, sewage, electrical, gas and *other utility extensions of reasonable length* to serve such construction. This includes the construction of limited numbers of new small facilities or utility extensions. 14 CCR § 15303.

OACYS's proposed activities involve construction of reasonably short OACYS extensions (Class 3). In order to provide its service, OACYS will install its fiber optic cable within an existing right-of-way to connect OACYS network operations with a long-haul fiber path owned by Central Valley Independent Network, LLC. The fiber optic cable and related equipment will be placed in trenches for existing right of way. Exemption of these activities are consistent with Commission precedent. OACYS's proposed new construction activities are similar to those undertaken by other carriers that we have decided are categorically exempt from CEQA. *See, e.g., D.06-04-063 (ClearLinx Network Corporation); D.06-04-067 (CA-CLEC LLC).*

OACYS requests approval to utilize a procedure for expedited review of its projects once it is aware of a specific site(s) in which it plans construction. The proposed procedure tracks the expedited review procedure that we have approved for other carriers. Such a process will expedite CEQA review and is appropriate for the type of construction outlined here, which will be categorically exempt. By establishing this expedited review process, we are able to review the information on a specific project to confirm that it is categorically exempt from CEQA or to explain why further environmental review is required. At the same time, the proposed CEQA review process will enable OACYS to undertake construction of its projects in an efficient manner without experiencing delays caused by an unnecessarily protracted CEQA review.

Similar to the procedure approved for other carriers, the following procedure will be used to obtain Commission approval of OACYS's claimed CEQA exemptions for proposed construction projects:

- OACYS will provide the Commission's Energy Division with:
  - A detailed description of the proposed project, including:
    - Customer(s) to be served;
    - The precise location of the proposed construction project; and
    - Regional and local site maps.
  - A description of the environmental setting, to include at a minimum:
    - Cultural, historical, and paleontological resources;
    - Biological resources; and
    - Current land use and zoning.
  - A construction workplan, to include:
    - Commission Preconstruction Survey Checklist – Archaeological Resources;
    - Commission Preconstruction Survey Checklist – Biological Resources;
    - A detailed schedule of construction activities, including site restoration activities;
    - A description of construction/installation techniques;
    - A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
  - A statement of the CEQA exemption(s) applicable to the proposed project; and

- Documentation and factual evidence sufficient to support a finding that the claimed exemption(s) is (are) applicable.
  - A list of permits required for the proposed project.
- The Energy Division will review OACYS's submission for the proposed project to confirm that the claimed exemption(s) from CEQA are applicable.
- Within 21 days from the date of OACYS's submittal, the Energy Division will issue either:
  - A Notice to Proceed (NTP) and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research, or
  - A letter of denial stating the specific reasons why the claimed exemption(s) are not applicable to the proposed project.

We have reviewed the application and Supplement and find that:

- OACYS's proposed facilities-based project activities are very limited;
- These activities would in almost all circumstances be very likely to qualify for an exemption from CEQA; and
- The proposed process for reviewing the applicability of CEQA exemptions to OACYS's facilities-based projects is not only adequate for the Commission's purposes as CEQA Lead Agency, but is also in the public interest because it enables OACYS to respond in a timely manner to requests for service without the delay or burden of a full CEQA review when such review is unnecessary.

We therefore approve OACYS's proposed process for Commission review of claimed CEQA exemptions for construction projects undertaken pursuant to OACYS's full facilities-based authority, based on the specific facts of this case with the following modifications related to the Commission's Energy Division review and approval or disapproval of the proposed exemptions.

- If the Energy Division disapproves OACYS's claimed CEQA exemption(s) and issues a letter of denial to OACYS, OACYS must either re-design the specific project and facilities and then reapply for a finding of exemption from CEQA, or file a formal application with the Commission seeking the requisite approval and full CEQA review, before commencing any construction activities.

OACYS shall not perform any full facilities-based construction activities without first obtaining an NTP from the Energy Division or authorization by the Commission after the requisite environmental review.

We have previously determined that the public convenience and necessity require that competition be allowed in the provision of competitive local exchange service, Rulemaking (R.) 95-04-043/Investigation (I.) 95-04-044. Granting this application will benefit the public interest by expanding the availability of technologically advanced telecommunications services within the state.

#### **4. Financial Qualifications**

To be granted a CPCN, an applicant for authority to provide full-facilities based and resold local exchange and interexchange services must demonstrate that it has a minimum of \$100,000 cash or cash equivalent to meet the firm's start-up expenses.<sup>2</sup> An applicant must also demonstrate that it has sufficient additional resources to cover all deposits required by local exchange carriers and/or interexchange carriers in order to provide the proposed service.<sup>3</sup> In the

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<sup>2</sup> The financial requirement for Competitive Local Exchange Carriers (CLEC) is contained in D.95-12-056, Appendix C. The financial requirement for Non-Dominant Interexchange Carriers (NDIEC) is contained in D.91-10-041.

<sup>3</sup> The requirement for Competitive Local Carrier (CLC) applicants to demonstrate that they have additional financial resources to meet any deposits required by underlying Local

*Footnote continued on next page*

application, OACYS provided supporting documentation that \$100,000 plus an amount equal to the deposit required by AT&T, Verizon, Citizens, Citizens Southwest, Frontier Southwest, and Frontier West Coast would be available to OACYS for one year following certification. Since OACYS has provided documentation that it possesses a minimum of \$100,000 that is reasonably liquid and available, it has demonstrated that it has sufficient funds to meet its start-up expenses and has fulfilled this requirement.

## **5. Technical Qualifications**

To be granted a CPCN for authority to provide local exchange and interexchange service, an applicant must make a reasonable showing of managerial and technical expertise in telecommunications or a related business.<sup>4</sup> OACYS supplied biographical information on its management in Exhibit G to its application and in response to a ruling that demonstrated that it has sufficient expertise and training to operate as a telecommunications provider.

In its application, OACYS verified that no one associated with or employed by OACYS as an affiliate, officer, director, partner, or owner of more than 10% of OACYS was previously associated with a telecommunications carrier that filed for bankruptcy, was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order, or has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of § 17000, et seq. of

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Exchange Carriers (LEC) and/or IECs is set forth in D.95-12-056, Appendix C. For NDIECs, the requirement is found in D.93-05-010.

<sup>4</sup> D.95-12-056 at Appendix C, Rule 4.A.

the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, nor is currently under investigation for similar violations.

Our review of the management biographical information and the verifications assures us that OACYS is in compliance with the requirements of D.95-12-056.

## **6. Tariffs**

Commission staff reviewed OACYS's draft tariffs for compliance with Commission rules and regulations. The deficiencies are noted in Attachment A to this decision. In its compliance tariff filing, OACYS shall correct these deficiencies as a condition of our approval of its application.

## **7. Map of Service Territory**

To be granted a CPCN for authority to provide local exchange service, an applicant must provide a map of the service territories it proposes to serve.<sup>5</sup> In its Response, OACYS provided a map of the location of its proposed service territory, in compliance with this requirement.

## **8. Rule 3.1(i) Statement (Include for Full Facilities Only)**

Rule 3.1(i) sets forth the requirement that a utility filing an application under Pub. Util. Code § 1001, provide a statement regarding General Order (GO) 104-A, Section 2. OACYS states that it is not aware of any reportable matters pursuant to General Order 104-A, Section 2. OACYS, therefore, has nothing to report under this rule.

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<sup>5</sup> D.95-12-056 at Appendix C, Rule 4.E.

On a going forward basis, though, OACYS must file all reports required of a public utility under Commission jurisdiction.

#### **9. Expected Customer Base**

OACYS provided its estimated customer base for the first and fifth years of operation in Exhibit F of its application. Therefore, OACYS has complied with this requirement.

#### **10. Request for Treatment as a Non-dominant Carrier**

OACYS requests treatment as a non-dominant interexchange carrier, which would include exemption from the requirements of Pub. Util. Code §§ 816-830 concerning stocks and security and § 851 concerning the encumbrance and transfer of OACYS property. The Commission detailed its rules regarding exemption of non-dominant carriers in D.85-01-008, and subsequently modified in D.85-07-081 and D.85-11-044. We grant Applicant's request for non-dominant interexchange carrier status, provided that they follow all rules detailed in the above referenced decisions.

#### **11. Conclusion**

We conclude that the application conforms to our rules for certification as a competitive local exchange and interexchange carrier. Accordingly, we amend OACYS's CPCN to include full facilities-based and resold and local exchange telecommunications service in the service territory of AT&T, Verizon, Citizens, Citizens Southwest, Frontier Southwest, and Frontier West Coast and interexchange service in California subject to compliance with the terms and conditions set forth in the Ordering Paragraphs.

The CPCN granted by this decision provides benefits to OACYS and corresponding obligations. OACYS receives authority to operate in the

prescribed service territory, it can request interconnection with other telecommunications carriers in accordance with Section 251 of the Federal Communications Act (47 U.S.C. 251), and it receives access to public rights of way in California as set forth in D.98-10-058 subject to the CEQA requirements set forth in this decision. In return, OACYS is obligated to comply with all applicable Public Utilities Codes and Commission Rules, GOs, and decisions applicable to telecommunications carriers providing approved services. The applicable Codes, Rules, etc. include, but are not limited to, consumer protection rules, tariffing, and reporting requirements. Moreover, OACYS is obligated to pay all Commission prescribed user fees and public purpose program surcharges as set forth in the Appendix B of this decision, to comply with CEQA, and to adhere to Pub. Util. Code Section 451 which states that every public utility "...shall furnish and maintain such adequate, efficient, just, and reasonable service, instrumentalities, equipment, and facilities, including telephone facilities, as defined in Section 54.1 of the Civil Code, as are necessary to promote the safety, health, comfort, and convenience of its patrons, employees, and the public."

## **12. Categorization and Need for Hearings**

In Resolution ALJ 176-3349, dated January 15, 2015 the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. There is no apparent reason why the application should not be granted. Given these developments, a public hearing is not necessary, and it is not necessary to disturb the preliminary determinations.

**13. Comments on Draft Decision**

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code and Rule 14.6(c)(2), the otherwise applicable 30-day period for public review and comment is waived.

**14. Assignment of Proceeding**

Commissioner Carla J. Peterman is the assigned Commissioner and ALJ Dorothy Duda and ALJ Pro Tem Hazlyn Fortune are co-assigned to this proceeding.

**Findings of Fact**

1. Notice of the application appeared on the Daily Calendar on December 24, 2014. No protests have been filed. A hearing is not required.
2. OACYS is a telephone corporation and a public utility as defined in Pub. Util. Code Sections 234(a) and 216(a).
3. The Commission is the Lead Agency for this project under CEQA.
4. OACYS's proposed construction activity falls within one or more CEQA categorical exemptions.
5. OACYS's authority to provide local exchange services will not have a significant adverse effect upon the environment.
6. OACYS has a minimum of \$100,000 of cash or cash equivalent that is reasonably liquid and readily available to meet its start-up expenses.
7. OACYS has sufficient additional cash or cash equivalent to cover deposits that may be required by other telecommunications carriers in order to provide the proposed service.
8. OACYS's management possesses sufficient experience, knowledge, and technical expertise to provide local exchange services to the public.

9. No one associated with or employed by OACYS as an affiliate, officer, director, partner, or owner of more than 10% of OACYS was: previously associated with a telecommunications carrier that filed for bankruptcy; was sanctioned by the Federal Communications Commission or any state regulatory agency for failure to comply with any regulatory statute, rule, or order; or was previously associated with any telecommunication carrier that has been found either civilly or criminally liable by a court of appropriate jurisdiction for a violation of § 17000, et seq. of the California Business and Professions Code, or for any actions which involved misrepresentations to consumers, nor is currently under investigation for similar violations.

10. Except for the deficiencies identified in Attachment A to this decision, OACYS's draft tariffs comply with the Commission's requirements.

11. OACYS provided a map of the location of its proposed service territory.

12. OACYS provided an estimate of its customer base for the first and fifth year of operation.

### **Conclusions of Law**

1. OACYS should be granted a CPCN to provide resold and full facilities-based local exchange telecommunications service in the service territories of AT&T, Verizon, Citizens, Citizens Southwest, Frontier Southwest, and Frontier West Coast and interexchange service in California, subject to the terms and conditions set forth in the Ordering Paragraphs.

2. OACYS should be allowed to use the Energy Division 21-day CEQA exemption process.

3. OACYS, once granted a CPCN, should be subject to the applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

4. OACYS's initial tariff filing should correct the tariff deficiencies shown in Attachment A to this decision.

5. OACYS should be granted non-dominant carrier status, subject to Commission rules and regulations as detailed in D.85-01-008 and modified in D.85-07-081 and D.85-11-044.

## **O R D E R**

### **IT IS ORDERED** that:

1. The Certificate of Public Convenience and Necessity, previously granted to OACYS Telecom, Inc. in Decision 08-01-039, is amended to allow it to provide resold and full facilities-based local exchange telecommunications services in the territories of Pacific Bell Telephone Company d/b/a AT&T California, Verizon California Inc., Citizens Telecommunications Company of California, Inc. d/b/a/ Frontier Communications of California, Citizens Telecommunications Company of the Southwest, Frontier Communications Company of the Southwest, Inc., and Frontier Communications West Coast, Inc. , and interexchange service in California, subject to the terms and conditions set forth below.

2. OACYS Telecom, Inc. may not offer competitive local exchange services until tariffs are filed with and authorized by this Commission, in accordance with General Order 96-B and as corrected for deficiencies set forth in Exhibit A.

3. The corporate identification number assigned to OACYS Telecom, Inc., U-7056-C, must be included in the caption of all original filings with this Commission, and in the titles of other pleadings filed in existing cases.

4. OACYS Telecom, Inc. must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a

continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its Certificate of Public Convenience and Necessity authority, OACYS Telecom, Inc. must submit a Tier-1 advice letter to the Director of Communications, containing a copy of the license holder's executed bond, and submit a Tier-1 advice letter annually, but not later than March 31, with a copy of the executed bond.

5. OACYS Telecom, Inc. must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a Certificate of Public Convenience and Necessity if a carrier is more than 120 days late in providing the Director of the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

6. In addition to all the requirements applicable to competitive local exchange carriers and interexchange carriers included in Attachments B, C, and D to this decision, OACYS Telecom, Inc. is subject to the Consumer Protection Rules contained in General Order 168, and all applicable Commission rules, decisions, General Orders, and statutes that pertain to California public utilities.

7. OACYS Telecom, Inc. must file, in this docket, a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

8. OACYS Telecom, Inc. must annually pay the user fee and public purpose surcharges specified in Attachment B. Per the instructions in Exhibit E to Decision 00-10-028, the Combined California Public Utilities Commission

Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0. Applicant must pay a minimum user fee of \$100 or 0.18% of gross intrastate revenue, whichever is greater. Under Public Utilities Code § 405, carriers that are in default of reporting and submitting user fees for a period of 30 days or more will be subject to penalties including suspension or revocation of their authority to operate in California.

9. Prior to initiating service, OACYS Telecom, Inc. must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact person(s) for purposes of resolving consumer complaints. This information must be updated if the name or telephone number changes, or at least annually.

10. Prior to initiating service, OACYS Telecom, Inc. must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at

<http://www.cpuc.ca.gov/PUC/telco/Information+for+providing+service/>.

This information must be updated if the name or telephone number changes, or at least annually.

11. OACYS Telecom, Inc. must notify the Director of the Communications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

12. OACYS Telecom, Inc. must file an affiliate transaction report with the Director of the Communications Division, in compliance with Decision 93-02-019, on a calendar year basis using the form contained in Attachment D.

13. OACYS Telecom, Inc. must file an annual report with the Director of the Communications Division, in compliance with General Order 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

14. OACYS Telecom, Inc. must file a tariff within 12 months of the effective date of this order, or its certificate will be cancelled.

15. The staff of the Commission's Energy Division is authorized to review, process, and act upon OACYS Telecom, Inc.'s requests for a determination that its full facilities-based construction activities are exempt from the requirements of the California Environmental Quality Act.

16. If OACYS Telecom, Inc. wishes to engage in full facilities-based construction activities and believes that these activities are exempt from California Environmental Quality Act, OACYS Telecom, Inc. shall first apply to the Commission's Energy Division staff for a determination of exemption from California Environmental Quality Act using the following procedure set forth in Ordering Paragraph 16.

17. OACYS Telecom, Inc. will provide the Commission's Energy Division with:

- a. A detailed description of the proposed project, including:
  - i. Customer(s) to be served;
  - ii. The precise location of the proposed construction project; and
  - iii. Regional and local site maps.
- b. A description of the environmental setting, including at a minimum:
  - i. Cultural, historical, and paleontological resources;
  - ii. Biological resources; and

- iii. Current land use and zoning.
- c. A construction workplan, including:
  - i. Commission Preconstruction Survey Checklist – Archaeological Resources;
  - ii. Commission Preconstruction Survey Checklist – Biological Resources;
  - iii. A detailed schedule of construction activities, including site restoration activities;
  - iv. A description of construction/installation techniques;
  - v. A list of other agencies contacted with respect to siting, land use planning, and environmental resource issues, including contact information; and
  - vi. A list of permits required for the proposed project.
- d. A statement of the California Environmental Quality Act exemption(s) claimed to apply to the proposed project; and
- e. Documentation supporting the finding of exemption from California Environmental Quality Act.
- f. The Energy Division will then review the submittal and notify OACYS Telecom, Inc. of either its approval or its denial of OACYS Telecom, Inc.'s claim for exemption from California Environmental Quality Act review within 21 days from the time that OACYS Telecom, Inc.'s submittal is complete.
- g. If the Energy Division approves OACYS Telecom, Inc.'s claimed California Environmental Quality Act exemption(s), the staff will prepare a Notice to Proceed and file a Notice of Exemption with the State Clearinghouse, Office of Planning and Research.
- h. If the Energy Division disapproves OACYS Telecom, Inc.'s claimed California Environmental Quality Act exemptions, the staff will issue to OACYS a letter which states the specific reasons that the claimed California Environmental Quality Act exemptions do not apply to the proposed project.

- i. If the Energy Division disapproves OACYS Telecom, Inc.'s claimed California Environmental Quality Act exemption(s), OACYS Telecom, Inc. shall either re-design the specific project and facilities and then reapply for a finding of exemption from California Environmental Quality Act, or file a formal application with the Commission seeking the requisite approval and full California Environmental Quality Act review, before commencing any full facilities-based construction activities.
18. Application 14-12-025 is closed.

This order is effective today.

Dated \_\_\_\_\_, 2015 at San Francisco, California.

**ATTACHMENT A**

**List of deficiencies in draft tariff submitted by OACYS Telecom, Inc. (U-7285 -C) in A.14-12-025 to be corrected in its initial tariff compliance filing.**

The following were missing from the proposed tariff submitted by the applicant and must be included in its compliance filing:

1. D.07-12-020 requires that tariffed originating intrastate access charges imposed by a competitive local exchange carrier shall be no greater than the higher of Pacific Bell Telephone Company doing business as AT&T California's (AT&T) and Verizon California Inc.'s (Verizon) intrastate access charges per minute of use, plus 10%, and each access charge rate element that is provided shall be no greater than the higher of AT&T's or Verizon's comparable charge, plus 10%, for that rate element.

**(END OF ATTACHMENT A)**

**ATTACHMENT B****REQUIREMENTS APPLICABLE TO COMPETITIVE LOCAL EXCHANGE CARRIERS AND INTEREXCHANGE CARRIERS**

1. Applicant must file, in this docket with reference to this decision number,<sup>6</sup> a written acceptance of the certificate granted in this proceeding within 30 days of the effective date of this order.

2. Applicant is subject to the following fees and surcharges that must be regularly remitted. Per the instructions in Exhibit E to Decision (D.) 00-10-028, the Combined California PUC Telephone Surcharge Transmittal Form must be submitted even if the amount due is \$0.

- a. The Universal Lifeline Telephone Service Trust Administrative Committee Fund (Pub. Util. Code § 879);
- b. The California Relay Service and Communications Devices Fund (Pub. Util. Code § 2881; D.98-12-073);
- c. The California High Cost Fund-A (Pub. Util. Code § 739.3; D.96-10-066, at 3-4, App. B, Rule 1.C);
- d. The California High Cost Fund-B (D.96-10-066, at 191, App. B, Rule 6.F.; D.07-12-054);
- e. The California Advanced Services Fund (D.07-12-054);
- f. The California Teleconnect Fund (D.96-10-066, at 88, App. B, Rule 8.G).
- g. The User Fee provided in Pub. Util. Code §§ 431-435. The minimum annual User Fee is \$100, as set forth in D.13-05-035.

Note: These fees change periodically. In compliance with Resolution T-16901, December 2, 2004, Applicant must check the joint tariff for surcharges and fees filed by Pacific Bell

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<sup>6</sup> Written acceptance filed in this docket does not reopen the proceeding.

Telephone Company (dba AT&T California) and apply the current surcharge and fee amounts in that joint tariff on end-user bills until further revised. Current and historical surcharge rates can be found at <http://www.cpuc.ca.gov/PUC/Telco/Consumer+Information/surcharges.htm>.

- Carriers must report and remit CPUC telephone program surcharges online using the CPUC Telecommunications and User Fees Filing System (TUFFS). Information and instructions for online reporting and payment of surcharges are available at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/Surcharge+Remittance.htm>. To request a user ID and password for TUFFS online filing and for questions, please e-mail [Telco\\_surcharges@cpuc.ca.gov](mailto:Telco_surcharges@cpuc.ca.gov).
- Carriers must file and pay the PUC User Fee (see above item 2g) upon receiving the User Fee statement sent by the Commission. User Fees cannot be reported or paid online. Instructions for reporting filing are available at <http://www.cpuc.ca.gov/PUC/Telco/Information+for+providing+service/userfee.htm>. Please call (415) 703-2470 for questions regarding User Fee reporting and payment.

3. Applicant is a competitive local exchange carrier (CLC). The effectiveness of its future tariffs is subject to the requirements of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

4. Applicant is a non-dominant interexchange carrier (NDIEC). The effectiveness of its future NDIEC tariffs is subject to the requirement of General Order 96-B and the Telecommunications Industry Rules (D.07-09-019).

5. Tariff filings must reflect all fees and surcharges to which Applicant is subject, as reflected in #2 above.

6. Applicant must file a service area map as part of its initial tariff.

7. Applicant must obtain a performance bond of at least \$25,000 in accordance with Decision 13-05-035. The performance bond must be a continuous bond (i.e., there is no termination date on the bond) issued by a corporate surety company authorized to transact surety business in California, and the Commission must be listed as the obligee on the bond. Within five days of acceptance of its certificate of public convenience and necessity authority, Applicant must submit a Tier-1 advice letter to the Director of Communications, containing a copy of the license holder's executed bond, and submit a Tier-1 advice letter annually, but not later than March 31, with a copy of the executed bond.

8. Applicant must not allow its performance bond to lapse during any period of its operation. Pursuant to Decision 13-05-035, the Commission may revoke a certificate of public convenience and necessity if a carrier is more than 120 days late in providing the Director of the Communications Division a copy of its executed performance bond and the carrier has not been granted an extension of time by the Communications Division.

9. Prior to initiating service, Applicant must provide the Commission's Consumer Affairs Branch with the name and address of its designated contact person(s) for purposes of resolving consumer complaints. In addition, Applicant must provide the Commission's Communications Division with the name and address of its designated regulatory/official contact persons(s). This information must be provided electronically, using the "Regulatory/Official Contact Information Update Request" found at <http://www.cpuc.ca.gov/PUC/telco/Information+for+providing+service/>. This information must be updated if the name or telephone number changes, or at least annually.

10. Applicant must notify the Director of the Communications Division in writing of the date that local exchange service is first rendered to the public, no later than five days after service first begins.

11. Applicant must keep its books and records in accordance with the Generally Accepted Accounting Principles.

12. In the event Applicant's books and records are required for inspection by the Commission or its staff, it must either produce such records at the Commission's offices or reimburse the Commission for the reasonable costs incurred in having Commission staff travel to its office.

13. Applicant must file an annual report with the Director of the Communications Division, in compliance with GO 104-A, on a calendar-year basis with the information contained in Attachment C to this decision.

14. Applicant must file an affiliate transaction report with the Director of the Communications Division, in compliance with D.93-02-019, on a calendar-year basis using the form contained in Attachment D.

15. Applicant must ensure that its employees comply with the provisions of Pub. Util. Code § 2889.5 regarding solicitation of customers.

16. Within 60 days of the effective date of this order, Applicant must comply with Pub. Util. Code § 708, Employee Identification Cards, and notify the Director of the Communications Division in writing of its compliance.

17. If Applicant is 90 days or more late in filing an annual report, or in remitting the surcharges and fee listed in #2 above, and has not received written permission from the Communications Division to file or remit late, the Communications Division must prepare for Commission consideration a resolution that revokes Applicant's CPCN.

18. Applicant is exempt from Rule 3.1(b) of the Commission Rules of Practice and Procedure

19. Applicant is exempt from Pub. Util. Code §§ 816-830.

20. Applicant is exempt from the requirements of Pub. Util. Code § 851 for the transfer or encumbrance of property whenever such transfer or encumbrance serves to secure debt.

21. If Applicant decides to discontinue service or file for bankruptcy, it must immediately notify the Communications Division's Bankruptcy Coordinator.

22. Applicant must send a copy of this decision to concerned local permitting agencies no later than 30 days from the date of this order.

**(END OF ATTACHMENT B)**

**ATTACHMENT C****ANNUAL REPORT**

An original and a machine readable, copy using Microsoft Word or compatible format must be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than March 31st of the year following the calendar year for which the annual report is submitted.

Failure to file this information on time may result in a penalty as provided for in Pub. Util. Code §§ 2107 and 2108.

Required information:

1. Exact legal name and U # of the reporting utility.
2. Address.
3. Name, title, address, and telephone number of the person to be contacted concerning the reported information.
4. Name and title of the officer having custody of the general books of account and the address of the office where such books are kept.
5. Type of organization (*e.g.*, corporation, partnership, sole proprietorship, etc.).

If incorporated, specify:

- a. Date of filing articles of incorporation with the Secretary of State.
  - b. State in which incorporated.
6. Number and date of the Commission decision granting the Certificate of Public Convenience and Necessity.
  7. Date operations were begun.
  8. Description of other business activities in which the utility is engaged.
  9. List of all affiliated companies and their relationship to the utility. State if affiliate is a:
    - a. Regulated public utility.
    - b. Publicly held corporation.
  10. Balance sheet as of December 31st of the year for which information is submitted.
  11. Income statement for California operations for the calendar year for which information is submitted.

12. Cash Flow statement as of December 31<sup>st</sup> of the calendar year for which information is submitted, for California operations only.

For answers to any questions concerning this report, call (415) 703-2883.

**(END OF ATTACHMENT C)**

**ATTACHMENT D****CALENDAR YEAR AFFILIATE TRANSACTION REPORT**

An original and a machine readable, copy using Microsoft Word and Excel, or compatible format must be filed with the California Public Utilities Commission, State Office Building, 505 Van Ness Avenue, Room 3107, San Francisco, CA 94102-3298, no later than May 1st of the year following the calendar year for which the annual report is submitted.

1. Each utility must list and provide the following information for each affiliated entity and regulated subsidiary that the utility had during the period covered by the Annual Affiliate Transaction Report.

- Form of organization (*e.g.*, corporation, partnership, joint venture, strategic alliance, etc.);
- Brief description of business activities engaged in;
- Relationship to the utility (*e.g.*, controlling corporation, subsidiary, regulated subsidiary, affiliate);
- Ownership of the utility (including type and percent ownership);
- Voting rights held by the utility. and percent; and
- Corporate officers.

2. The utility must prepare and submit a corporate organization chart showing any and all corporate relationships between the utility and its affiliated entities and regulated subsidiaries in #1 above. The chart must have the controlling corporation (if any) at the top of the chart, the utility and any subsidiaries and/or affiliates of the controlling corporation in the middle levels of the chart, and all secondary subsidiaries and affiliates (*e.g.*, a subsidiary that in turn is owned by another subsidiary and/or affiliate) in the lower levels. Any regulated subsidiary must be clearly noted.

3. For a utility that has individuals who are classified as “controlling corporations” of the competitive utility, the utility must only report under the requirements of #1 and #2 above any affiliated entity that either (a) is a public OACYS Telecom, Inc. or (b) transacts any business with the utility filing the annual report excluding the provision of tariff services.

4. Each annual report must be signed by a corporate officer of the utility stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

5. Any required material that a utility is unable to provide must be reasonably described and the reasons the data cannot be obtained, as well as the efforts expended to obtain the information, must be set forth in the utility’s Annual Affiliate Transaction Report and verified in accordance with Section I-F of Decision 93-02-019.

6. Utilities that do not have affiliated entities must file, in lieu of the annual transaction report, an annual statement to the Commission stating that the utility had no affiliated entities during the report period. This statement must be signed by a corporate officer of the utility, stating under penalty of perjury under the laws of the State of California (CCP 2015.5) that the annual report is complete and accurate with no material omissions.

**(END OF ATTACHMENT D)**